

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3779 of 2002

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

STATE OF GUJARAT

Versus

FULAJI BHUDARJI THAKORE

Appearance:

MR KP RAWAL, AGP, for Petitioner No. 1

MR SADIQUE for MR JA ADESARA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 06/08/2004

ORAL JUDGEMENT

1. By way of this petition the petitioner has challenged the judgement and award passed by the Labour Court, Kalol, dated 14.5.2001 in Reference (LCK) No.326/99.

2. The respondent workman had raised a dispute

stating that his services were terminated with effect from 15.2.1999 without assigning any reasons or without following any due process of law. The dispute was referred to the Labour Court, Kalol which was numbered as Reference (LCK) No.326/99. The Labour Court, after hearing the parties, passed the impugned judgement and award directing the petitioner to reinstate respondent workman on his original post without any backwages. It is against the said decision the present petition has been filed.

3. Mr. K.P. Rawal, learned AGP, submitted that the Irrigation Department is not an "industry" under the Industrial Disputes Act in view of the decision reported in 2000 Vol.(I) GLH 482 and in the case of State of Gujarat Vs. P.M. Parmar, reported in JT 2001 Vol (III) SC 326 wherein it is held that Forest Department is not an industry. However, this issue is squarely covered by the recent decision of this Court in the case of Gujarat F.P.G. & F.W. Union Vs. State of Gujarat, reported in 2004(2) GLR 428 wherein it is held that Irrigation Department is held to be an "industry". Therefore, the first ground raised by the petitioner cannot be accepted.

4. The second contention raised by Mr. Rawal is that since the respondent workman was a daily wager, he is not required to be given any notice. In this context it is required to be noted that the Labour Court has observed that the respondent workman has worked for 240 days and therefore in the interest of justice before relieving him notice is required to be given. Therefore, I do not find any substance in the contention raised by Rawal that the respondent workman is not required to be given any notice. On the contrary, the case of the respondent was required to be considered in view of the Government Resolution dated 17th October 1988. Therefore, looking to the peculiar facts and circumstances of the case this is not a case where this Court should interfere under Article 227 of the Constitution of India.

5. In the premises aforesaid, the petition is rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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